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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

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|---------------------|---|------------------------------|
| LESLIE FRANK PAYNE, |) | Case No. CV 08-3509-PA (MLG) |
| |) | |
| Plaintiff, |) | MEMORANDUM OPINION AND ORDER |
| |) | DISMISSING COMPLAINT WITHOUT |
| v. |) | PREJUDICE FOR FAILURE TO |
| |) | PROSECUTE |
| LEE BACA, et al., |) | |
| |) | |
| Defendants. |) | |
| |) | |

On June 4, 2008, Plaintiff Leslie Frank Payne, then a prisoner at the California State Prison at Lancaster, filed this complaint pursuant to 42 U.S.C. § 1983, asserting constitutional violations arising from an alleged denial of medical care while incarcerated at the Los Angeles County Jail. On June 11, 2008, Magistrate Judge Marc L. Goldman screened the complaint pursuant to 28 U.S.C. § 1915(e)(2), and dismissed the complaint with leave to amend. Plaintiff was given 30 days in which to file an amended complaint. That Order was served on Plaintiff and never returned to the Court.

1 On June 18, 2008, Plaintiff filed a notice of change of address
2 with the Court. He informed the Court that he would be paroled on
3 June 20, 2008 and would inform the Court of his new address. No new
4 address has ever been provided to the Court.

5 On July 18, 2008, Magistrate Judge Goldman issued an order
6 directing Plaintiff to show cause, on or before August 4, 2008, why
7 the petition should not be dismissed for failure to prosecute,
8 pursuant to Fed.R.Civ.P. 41(b) and L.R. 41-6. It was sent to
9 Plaintiff's last known prison address. That order was not returned,
10 but was never complied with.

11 This action shall be dismissed for failure to prosecute. The
12 Court has the inherent power to achieve the orderly and expeditious
13 disposition of cases by dismissing actions for failure to prosecute.
14 *Link v. Wabash R.R.*, 370 U.S. 626, 629-30 (1962); *Ferdik v. Bonzelet*,
15 963 F.2d 1258, 1260-61 (9th Cir. 1992). The Court is required to
16 weigh the following factors in determining whether to dismiss a case
17 for lack of prosecution: "(1) the public's interest in expeditious
18 resolution of litigation; (2) the court's need to manage its docket;
19 (3) the risk of prejudice to the defendants; (4) the public policy
20 favoring disposition of cases on their merits; and (5) the
21 availability of less drastic sanctions." *Ferdik*, 963 F.2d at 1260-
22 1261. See also *In re PPA Products Liability Litigation*, 460 F.3d
23 1217, 1226 (9th Cir. 2006); *Pagtalunan v. Galaza*, 291 F.3d 639, 642
24 (9th Cir. 2002); *In re Eisen*, 31 F.3d 1447, 1451 (9th Cir. 1994).

25 Here, the public's interest in the expeditious resolution of
26 litigation and the court's interest in managing its docket weighs in
27 favor of dismissal. Plaintiff has been on parole since June 20, 2008,
28 and has not notified the Court of his current address. He was

1 directed to file a first amended complaint no later than July 11,
2 2008, but failed to do so. Given Plaintiff's failure to comply with
3 the court's orders, dismissal would not undermine the public policy
4 favoring disposition of cases on the merits. Moreover, there is no
5 identifiable risk of prejudice to Defendants. Finally, in the absence
6 of the ability to contact Plaintiff, there is no less drastic
7 sanction available.

8 In addition, L.R. 41-6 requires that a party appearing *pro se*
9 keep the court informed of any change of address. Petitioner notified
10 the Court on June 18, 2008 that he was about to be released from
11 prison, but has not informed the Court of his current whereabouts.
12 Under these circumstances, there is no way that the case can move
13 forward.

14 Accordingly, dismissal of this action without prejudice for
15 failure to prosecute is warranted.

16 IT IS SO ORDERED.

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18 Dated: August 18, 2008



Percy Anderson
United States District Judge

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22 Presented By:



Marc L. Goldman
United States Magistrate Judge